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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,816	01/16/2004	Michael W. Murphy	8540G-000233	6583
27572	7590	10/09/2007	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C.			LEE, CYNTHIA K	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/758,816	MURPHY ET AL.	
	Examiner	Art Unit	
	Cynthia Lee	1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 25 July 2007.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-9 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1-9 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
5) Notice of Informal Patent Application
6) Other: _____

Response to Amendment

This Office Action is responsive to the amendment filed on 7/25/2007. Claims 10-49 have been canceled. Claims 1-9 are pending. Claim 1 has been amended. In light of newly found prior art, claims 1-9 are non-finally rejected for reasons stated herein below.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "electrically conductive filler disposed in a via formed through said first gas impermeable element" in claim 4 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "72" has been used to designate different parts in fig. 2 and 3A.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 1, the recitation "a second gas-impermeable element in a subjacent relationship to said first planar manifold" is not supported by the disclosure as originally filed (emphasis added). According to fig. 4A, the first gas-impermeable sheet 66 is subjacent to the second gas-impermeable sheet 76.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is unclear how the first planar manifold is "between" the first gas-impermeable element and an active element because according to the Specification, the manifold 90 is part of the gas impermeable sheet 66 of figs. 2 and 3.

In claim 1, it is unclear how the second planar manifold is "between" the second gas-impermeable element and an active element because according to the Specification, the manifold 90 is part of the gas impermeable sheet 66 of figs. 2 and 3.

The Examiner notes that the manifold is not "between" the gas impermeable sheet element, and that the manifold is part of the gas impermeable sheet as, for example, the inlet manifold 90 it is outlined by the interior edge of the frame 122 of the first gas impermeable sheet 66 (figs 2 and 3B and par. [0040]).

In claim 1, the recitation "each of said plurality of said spacer and said first gas-impermeable element" is unclear. It is unclear if the recitation "each of" refers to "said spacer" alone or "said spacer and said first gas-impermeable element." If it is the latter, then it is further unclear if the orifice for "each of ... said first gas-impermeable element" refers to another orifice in addition to the orifice of "each of said plurality of said spacer" or not.

In claim 1, the recitation "wherein a flow path is established from said second planar manifold through said orifice over said active element to said first planar manifold" is unclear because "said active element" is not disposed between said second

planar manifold and said first planar manifold (refer to fig. 1 for bipolar plate 20 and the active element (or the MEA) 16).

In claim 9, the recitation "spacers are equidistantly spaced on said first gas-impermeable element within said first planar manifold" is unclear. It is unclear if it means that the spacers are within said manifold or if said first gas-impermeable element is within said manifold.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Wakana (JP 2002-008682).

Wakana discloses a disc-like bipolar plate defined by two plates comprising a plurality of circumferential sections 15 (applicant's spacers) having openings for the inlet and outlet reactant gas (refer to the labeled arrows 17a and an unlabeled arrow of fig. 3) (applicant's orifice). The plates are made of metal [0009], and thus forms an electrically conductive path extending through the fuel cell. The first and second plates of Wakana are disposed substantially parallel to each other (see fig. 6). The circumferential sections are disposed within the manifold. The spacers comprise a nested array of spacer on each plate. The bipolar plate further comprises a circular piping 19d

(applicant's frame) that distributes the reactant gas to each circumferential sections of the plate. The circumferential sections are equidistantly spaced on the plate.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia Lee whose telephone number is 571-272-8699. The examiner can normally be reached on Monday-Friday 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Susy Tsang-Foster can be reached on 571-272-1293. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


SUSY TSANG-FOSTER
PRIMARY EXAMINER

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